

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
Eastern Division

DOCKETED
APR 16 2002

NCR CORPORATION,
a Maryland corporation,

Plaintiff,

v.

uBID, INC.,
a Delaware corporation

Defendant.

Civil Action No.:

U.S. District Judge:

U.S. Magistrate Judge:

CHIEF JUDGE ASPEN
MAGISTRATE JUDGE NOLAN

JURY DEMANDED

NOTICE OF CLAIMS INVOLVING UNITED STATES PATENTS

To: Commissioner for Patents
Washington, D.C. 20231

In compliance with 35 U.S.C. § 290 and/or 15 U.S.C. §116, you are hereby advised that a court action has been filed in the U.S. District Court for the Northern District of Illinois on the following Patents:

Patent No.	Date of Patent	Inventor(s) of Patent
5,699,526	December 16, 1997	David M. Siefert
5,951,643	September 14, 1999	James A. Shelton, Michael I. Ingrassia, Jr., Thomas M. Rowland
5,954,798	September 21, 1999	James A. Shelton, Michael I. Ingrassia, Jr., Thomas M. Rowland


6,026,403	February 15, 2000	David M. Siefert
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By Deputy Clerk: _____

Date: _____

NCR CORPORATION

Dated: April 15, 2002

By: 
Steven Z. Szczepanski
Michael K. Nutter
Jenkins & Gilchrist, PC
225 West Washington Street
Chicago, Illinois 60606
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Attorneys for Plaintiff
NCR CORPORATION

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
Eastern Division

DOCKETED
APR 16 2002

NCR CORPORATION,
a Maryland corporation,

Plaintiff,

v.

uBID, INC.,
a Delaware corporation

Defendant.

Civil Action No. 02C 2706

U.S. District Judge:

U.S. Magistrate Judge:

CHIEF JUDGE ASPEN

MAGISTRATE JUDGE NOLAN

JURY DEMANDED

COMPLAINT

Plaintiff, NCR Corporation, Inc. ("NCR"), through its attorneys, for its Complaint
against Defendant uBid, Inc., alleges as follows:

NATURE OF THE ACTION

1. This is a patent infringement action for Defendant's unauthorized and
infringing operation and use and/or inducement of others to use online computerized e-
commerce services, which can be accessed via the Internet at the URL www.ubid.com.
The aforementioned services are covered by the following four (4) NCR patents: U.S.
Patent No. 5,699,526; U.S. Patent No. 5,951,643; U.S. Patent No. 5,954,798; and U.S.
Patent No. 6,026,403 (collectively referred to as "the NCR Patents").
2. NCR seeks injunctive relief to prevent Defendant from its continuing
infringement of NCR's valuable patent rights in the field of online computerized e-
commerce services. In addition, NCR seeks monetary damages for Defendant's past
infringement of the NCR Patents. Finally, NCR seeks recovery of increased damages
and its attorneys' fees, interest, costs and expenses because this is an exceptional case

within the meaning of the Patent statute. Defendant's disregard for NCR's patent rights demonstrates a lack of the required duty of care to avoid infringement of the NCR Patents and makes this case exceptional.

THE PARTIES

3. Plaintiff, NCR Corporation, Inc., is a corporation organized and existing under the laws of Maryland, having its principal place of business at 1700 South Patterson Boulevard, Dayton, Ohio 45479-0001.

4. On information and belief, Defendant, uBid, Inc., is a corporation organized and existing under the laws of Delaware, having its principal place of business at 8550 West Bryn Mawr Road, Suite 200, Chicago, Illinois 60631.

JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the Patent Act of the United States, Title 35 of the United States Code, specifically, 35 U.S.C. § 100, *et seq.*, including §§ 271 and 281. This Court has subject matter jurisdiction over this patent infringement action pursuant to 28 U.S.C. §§ 1331 and 1338(b).

6. Venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400(b).

COUNTS

Count I – Infringement of U.S. Patent Number 5,699,526

7. Paragraphs 1 through 6 are incorporated by reference as if fully stated herein.

8. United States Patent Number 5,699,526 ("the '526 patent"), entitled "Ordering and Downloading Resources From Computerized Repositories," was duly and legally issued by the United States Patent and Trademark Office on December 16, 1997. The

inventor of the '526 patent is NCR employee David M Siefert. A true and correct copy of the '526 patent is attached as Exhibit A.

9. Pursuant to his employment agreement, the inventor of the '526 patent has assigned to NCR his right, title, and interest to this patent, including the right to pursue infringers and recover for infringement of the '526 patent. NCR owns the entire right, title and interest in and to the '526 patent, including the right to sue and recover damages for past infringement.

10. On information and belief, Defendant has infringed and/or has induced others to infringe and/or has committed acts of contributory infringement of one or more claims of the '526 patent. Defendant's infringing activities include, but are not limited to, operating and using and/or inducing others to use Defendant's online computerized e-commerce services, which can be accessed via the Internet at the URL www.ubid.com.

11. Defendant has been on notice of its infringement of the '526 patent since at least February 28, 2002.

12. On information and belief, Defendant's infringement of the '526 patent has been willful and deliberate.

13. As a consequence of the infringing activities of Defendant regarding the '526 patent, NCR has suffered monetary damages and is entitled to monetary damages pursuant to 35 U.S.C. § 284 in an amount not yet determined.

14. As a consequence of the infringing activities of Defendant regarding the '526 patent, NCR will continue to suffer irreparable harm unless Defendant is enjoined by this Court.

Count II - Infringement of U.S. Patent Number 5,951,643

15. Paragraphs 1 through 6 are incorporated by reference as if stated fully herein.

16. United States Patent Number 5,951,643 (“the ‘643 patent”), entitled “Mechanism for Dependably Organizing and Managing Information for Web Synchronization and Tracking among Multiple Browsers,” was duly and legally issued by the United States Patent and Trademark Office on September 14, 1999. The inventors of the ‘643 patent are NCR employees James A. Shelton, Michael I. Ingrassia, Jr. and Thomas M. Rowland. A true and correct copy of the ‘643 patent is attached as Exhibit B.

17. Pursuant to their employment agreements, the inventors of the ‘643 patent have assigned to NCR their rights, titles, and interests to this patent, including the right to pursue infringers and recover for infringement of the ‘643 patent. NCR owns the entire right, title and interest in and to the ‘643 patent, including the right to sue and recover damages for past infringement.

18. On information and belief, Defendant has infringed and/or has induced others to infringe and/or has committed acts of contributory infringement of one or more claims of the ‘643 patent. Defendant’s infringing activities include, but are not limited to, operating and using and/or inducing others to use Defendant’s online computerized e-commerce services, which can be accessed via the Internet at the URL www.ubid.com.

19. Defendant has been on notice of its infringement of the ‘643 patent since at least November 5, 2001.

20. On information and belief, Defendant’s infringement of the ‘643 patent has been willful and deliberate.

21. As a consequence of the infringing activities of Defendant regarding the '643 patent, NCR has suffered monetary damages and is entitled to monetary damages pursuant to 35 U.S.C. § 284 in an amount not yet determined.

22. As a consequence of the infringing activities of Defendant regarding the '643 patent, NCR will continue to suffer irreparable harm unless Defendant is enjoined by this Court.

Count III – Infringement of U.S. Patent Number 5,954,798

23. Paragraphs 1 through 6 are incorporated by reference as if stated fully herein.

24. United States Patent Number 5,954,798 ("the '798 patent"), entitled "Mechanism for Dependably Managing Web Synchronization and Tracking Operations among Multiple Browsers," was duly and legally issued by the United States Patent and Trademark Office on September 21, 1999. The inventors of the '798 patent are NCR employees James A. Shelton, Michael I. Ingrassia, Jr. and Thomas M. Rowland. A true and correct copy of the '798 patent is attached as Exhibit C.

25. Pursuant to their employment agreements, the inventors of the '798 patent have assigned to NCR their rights, titles, and interests to this patent, including the right to pursue infringers and recover for infringement of the '798 patent. NCR owns the entire right, title and interest in and to the '798 patent, including the right to sue and recover damages for past infringement.

26. On information and belief, Defendant has infringed and/or has induced others to infringe and/or has committed acts of contributory infringement of one or more claims of the '798 patent. Defendant's infringing activities include, but are not limited to,

operating and using and/or inducing others to use Defendant's online computerized e-commerce services, which can be accessed via the Internet at the URL www.ubid.com.

27. Defendant has been on notice of its infringement of the '798 patent since at least November 5, 2001.

28. On information and belief, Defendant's infringement of the '798 patent has been willful and deliberate.

29. As a consequence of the infringing activities of Defendant regarding the '798 patent, NCR has suffered monetary damages and is entitled to monetary damages pursuant to 35 U.S.C. § 284 in an amount not yet determined.

30. As a consequence of the infringing activities of Defendant regarding the '798 patent, NCR will continue to suffer irreparable harm unless Defendant is enjoined by this Court.

Count IV - Infringement of U.S. Patent Number 6,026,403

31. Paragraphs 1 through 6 are incorporated by reference as if stated fully herein.

32. United States Patent Number 6,026,403 ("the '403 patent"), entitled "Computer System for Management of Resources," was duly and legally issued by the United States Patent and Trademark Office on February 15, 2000. The inventor of the '403 patent is NCR employee David M. Siefert. A true and correct copy of the '403 patent is attached as Exhibit D.

33. Pursuant to his employment agreement, the inventor of the '403 patent has assigned to NCR his right, title, and interest to this patent, including the right to pursue infringers and recover for infringement of the '403 patent. NCR owns the entire right,

title and interest in and to the '403 patent, including the right to sue and recover damages for past infringement.

34. On information and belief, Defendant has infringed and/or has induced others to infringe and/or has committed acts of contributory infringement of one or more claims of the '403 patent. Defendant's infringing activities include, but are not limited to, operating and using and/or inducing others to use Defendant's online computerized e-commerce services, which can be accessed via the Internet at the URL www.ubid.com.

35. Defendant has been on notice of its infringement of the '403 patent since at least November 5, 2001.

36. On information and belief, Defendant's infringement of the '403 patent has been willful and deliberate.

37. As a consequence of the infringing activities of Defendant regarding the '403 patent, NCR has suffered monetary damages and is entitled to monetary damages pursuant to 35 U.S.C. § 284 in an amount not yet determined.

38. As a consequence of the infringing activities of Defendant regarding the '403 patent, NCR will continue to suffer irreparable harm unless Defendant is enjoined by this Court.

JURY DEMAND

NCR demands a jury trial on all issues triable to a jury in this matter.

REQUESTED RELIEF

WHEREFORE, NCR respectfully requests that the Court:


- A. Preliminarily and permanently enjoin Defendant, its agents, servants, attorneys, employees and those persons in active concert or participation

with them who receive actual notice of the other, from making, using, selling, offering to sell, importing, or otherwise engaging in acts of infringement of the NCR Patents;

- B. Award to NCR actual damages suffered by NCR as the result of infringement of the NCR Patents by Defendant;
- C. Award increased damages against Defendant up to three times the actual damages pursuant to 35 U.S.C. § 284;
- D. Enter an order declaring this as an exceptional case pursuant to 35 U.S.C. § 285 and award to NCR their attorneys' fees, costs, and expenses; and
- E. Grant to NCR such other and further relief as may be just and appropriate.

NCR CORPORATION

Dated: April 15, 2002

By 
Steven Z. Szczepanski
Michael K. Nutter
Jenkins & Gilchrist, PC
225 West Washington Street
Chicago, Illinois 60606
Telephone: (312) 425-3900
Facsimile: (312) 425-3909

Attorneys for Plaintiff
NCR CORPORATION

SEE CASE
FILE FOR
EXHIBITS

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

DOCKETED

APR 16 2002

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

**Plaintiff: NCR CORPORATION, a
Maryland corporation**

County of Residence: Montgomery County

Plaintiff's Atty: Steven Z. Szczepanski

Jenkins & Gilchrist

225 West Washington

Suite 2600

Chicago, Illinois 60606

(312) 425-3900

**Defendant: uBid, INC., a Delaware
corporation**

County of Residence: Cook County

Defendant's Atty:

02C 2706

II. Basis of Jurisdiction: Federal Question

III. Citizenship of Principal

Parties (Diversity Cases Only)

Plaintiff:-

Defendant:-

IV. Origin : 830 Patent

V. Nature of Suit: 1. Original Proceeding

VI. Cause of Action: Action for patent infringement under 35 U.S.C. Sections 100 et. seq. and Sections 271 and 281

VII. Requested in Complaint

Class Action:

Dollar Demand:

Jury Demand: Yes

VIII. This case IS NOT a refiling of a previously dismissed case.

Signature:

Date: April 15, 2002

CHIEF JUDGE ASPEN

MAGISTRATE JUDGE NOLAN

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02 APR 15 PM 3:45
U.S. DISTRICT COURT

**UNITED STATES DISTRICT COURT
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NCR CORPORATION,
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uBID, INC.,
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Defendant.

Civil Action No.:

02C 2706

U.S. District Judge:

U.S. Magistrate Judge:

CHIEF JUDGE ASPEN

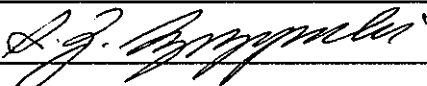

MAGISTRATE JUDGE NOLAN

JURY DEMANDED

DOCKETED

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR: **APR 16 2002**

NCR CORPORATION, a Maryland corporation

(A)		(B)	
SIGNATURE 		SIGNATURE 	
NAME Steven Z. Szczepanski		NAME Michael K. Nutter	
FIRM Jenkins & Gilchrist		FIRM Jenkins & Gilchrist	
STREET ADDRESS 225 W. Washington Street, Suite 2600		STREET ADDRESS 225 W. Washington Street, Suite 2600	
CITY/STATE/ZIP Chicago, IL 60606		CITY/STATE/ZIP Chicago, IL 60606	
TELEPHONE NUMBER (312) 425-3900		TELEPHONE NUMBER (312) 425-3900	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 2791633		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6243586	
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TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
(C)		(D)	
SIGNATURE		SIGNATURE	
NAME		NAME	
FIRM		FIRM	
STREET ADDRESS		STREET ADDRESS	
CITY/STATE/ZIP		CITY/STATE/ZIP	
TELEPHONE NUMBER		TELEPHONE NUMBER	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
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DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	

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U.S. DISTRICT COURT

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